

AMENDED IN SENATE APRIL 27, 1999

AMENDED IN SENATE APRIL 15, 1999

**SENATE BILL**

**No. 555**

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**Introduced by Senator Karnette**

February 19, 1999

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An act to amend Sections 451.5 and 457.1 of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as amended, Karnette. Arson: registration.

Existing law defines the crime of aggravated arson, and specifies costs to be included in calculating property damage for purposes of those provisions. The provisions relating to calculating property damage cease to have effect on January 1, 1999.

This bill would extend the operation of the above-described provisions to January 1, 2005, as specified. By extending the existence of an existing crime, this bill would create a state-mandated local program.

Existing law requires a convicted arsonist, as specified, to register with certain local officials where he or she resides and makes it a misdemeanor to fail to register.

This bill would, in addition, subject persons convicted of aggravated arson ~~and possession or use of certain destructive devices containing flammable liquids, as specified,~~ to the provisions described above. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. The bill would also recast the provisions of law

specifying the conditions requiring registration, and specify the length of time persons are subject to the registration requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 451.5 of the Penal Code is  
2 amended to read:

3 451.5. (a) Any person who willfully, maliciously,  
4 deliberately, with premeditation, and with intent to  
5 cause injury to one or more persons or to cause damage  
6 to property under circumstances likely to produce injury  
7 to one or more persons or to cause damage to one or more  
8 structures or inhabited dwellings, sets fire to, burns, or  
9 causes to be burned, or aids, counsels, or procures the  
10 burning of any residence, structure, forest land, or  
11 property is guilty of aggravated arson if one or more of the  
12 following aggravating factors exists:

13 (1) The defendant has been previously convicted of  
14 arson on one or more occasions within the past 10 years.

15 (2) (A) The fire caused property damage and other  
16 losses in excess of five million dollars (\$5,000,000).

17 (B) In calculating the total amount of property  
18 damage and other losses under subparagraph (A), the  
19 court shall consider the cost of fire suppression. It is the  
20 intent of the Legislature that this paragraph be reviewed  
21 within five years to consider the effects of inflation on the  
22 dollar amount stated herein. For that reason, this  
23 paragraph shall remain in effect only until January 1, 2005,  
24 and as of that date is repealed, unless a later enacted  
25 statute, which is enacted before January 1, 2005, deletes  
26 or extends that date.

(3) The fire caused damage to, or the destruction of, five or more inhabited structures.

(b) Any person who is convicted under subdivision (a) shall be punished by imprisonment in the state prison for 10 years to life.

(c) Any person who is sentenced under subdivision (b) shall not be eligible for release on parole until 10 calendar years have elapsed.

SEC. 2. Section 457.1 of the Penal Code is amended to read:

457.1. (a) As used in this section, “arson” means a violation of Section 451, 451.5, ~~453, or 12303.3, where the offense is predicated upon a destructive device as defined in paragraph (5) of subdivision (a) of Section 12301, or~~ 453, and attempted arson, that includes, but is not limited to, a violation of Section 455.

(b) (1) Every person described in paragraph (2), (3), and (4), for the periods specified therein, shall, while residing in, or if the person has no residence, while located in California, be required to, within 14 days of coming into, or changing the person’s residence or location within any city, county, city and county, or campus wherein the person temporarily resides, or if the person has no residence, is located:

(A) Register with the chief of police of the city where the person is residing, or if the person has no residence, where the person is located.

(B) Register with the sheriff of the county where the person is residing, or if the person has no residence, where the person is located in an unincorporated area or city that has no police department.

(C) In addition to (A) or (B) above, register with the chief of police of a campus of the University of California, the California State University, or community college where the person is residing, or if the person has no residence, where the person is located upon the campus or any of its facilities.

(2) Any person who, since September 7, 1994, has been or is hereafter convicted in any court in this state of arson or attempted arson shall be required to register, in

1 accordance with the provisions of this section, for the rest  
2 of his or her life.

3 (3) Any person who, having committed the offense of  
4 arson or attempted arson, and after having been  
5 adjudicated a ward of the juvenile court, is discharged or  
6 paroled from the Department of the Youth Authority on  
7 or after January 1, 1993, shall be required to register, in  
8 accordance with the provisions of this section, until that  
9 person attains the age of 25 years.

10 (4) Any person convicted of the offense of arson or  
11 attempted arson between January 1, 1985, and September  
12 4, 1994, in any court of this state, shall be required to  
13 register, in accordance with the provisions of this section,  
14 for a period of five years commencing, in the case where  
15 the person was confined for the offense, from the date of  
16 their release from confinement, or in the case where the  
17 person was not confined for the offense, from the date of  
18 sentencing or discharge, if that person was ordered by the  
19 court at the time that person was sentenced to register as  
20 an arson offender. The law enforcement agencies shall  
21 make registration information available to the chief fire  
22 official of a legally organized fire department or fire  
23 protection district having local jurisdiction where the  
24 person resides.

25 (c) Any person required to register pursuant to this  
26 section who is discharged or paroled from a jail, prison,  
27 school, road camp, or other penal institution, or from the  
28 Department of the Youth Authority where he or she was  
29 confined because of the commission or attempted  
30 commission of arson, shall, prior to the discharge, parole,  
31 or release, be informed of his or her duty to register under  
32 this section by the official in charge of the place of  
33 confinement. The official shall require the person to read  
34 and sign the form as may be required by the Department  
35 of Justice, stating that the duty of the person to register  
36 under this section has been explained to him or her. The  
37 official in charge of the place of confinement shall obtain  
38 the address where the person expects to reside upon his  
39 or her discharge, parole, or release and shall report the  
40 address to the Department of Justice. The official in

1 charge of the place of confinement shall give one copy of  
2 the form to the person, and shall, not later than 45 days  
3 prior to the scheduled release of the person, send one  
4 copy to the appropriate law enforcement agency having  
5 local jurisdiction where the person expects to reside upon  
6 his or her discharge, parole, or release; one copy to the  
7 prosecuting agency that prosecuted the person; one copy  
8 to the chief fire official of a legally organized fire  
9 department or fire protection district having local  
10 jurisdiction where the person expects to reside upon his  
11 or her discharge, parole, or release; and one copy to the  
12 Department of Justice. The official in charge of the place  
13 of confinement shall retain one copy. All forms shall be  
14 transmitted in time so as to be received by the local law  
15 enforcement agency and prosecuting agency 30 days  
16 prior to the discharge, parole, or release of the person.

17 (d) All records relating specifically to the registration  
18 in the custody of the Department of Justice, law  
19 enforcement agencies, and other agencies or public  
20 officials shall be destroyed when the person required to  
21 register under this subdivision for offenses adjudicated by  
22 a juvenile court attains the age of 25 years or has his or her  
23 records sealed under the procedures set forth in Section  
24 781 of the Welfare and Institutions Code, whichever  
25 event occurs first. This subdivision shall not be construed  
26 to require the destruction of other criminal offender or  
27 juvenile records relating to the case that are maintained  
28 by the Department of Justice, law enforcement agencies,  
29 the juvenile court, or other agencies and public officials  
30 unless ordered by the court under Section 781 of the  
31 Welfare and Institutions Code.

32 (e) Any person who is required to register pursuant to  
33 this section who is released on probation or discharged  
34 upon payment of a fine shall, prior to the release or  
35 discharge, be informed of his or her duty to register under  
36 this section by the probation department of the county in  
37 which he or she has been convicted, and the probation  
38 officer shall require the person to read and sign the form  
39 as may be required by the Department of Justice, stating  
40 that the duty of the person to register under this section

1 has been explained to him or her. The probation officer  
2 shall obtain the address where the person expects to  
3 reside upon his or her release or discharge and shall  
4 report within three days the address to the Department  
5 of Justice. The probation officer shall give one copy of the  
6 form to the person, and shall send two copies to the  
7 Department of Justice, which, in turn, shall forward one  
8 copy to the appropriate law enforcement agency having  
9 local jurisdiction where the person expects to reside upon  
10 his or her discharge, parole, or release.

11 (f) The registration shall consist of (1) a statement in  
12 writing signed by the person, giving the information as  
13 may be required by the Department of Justice, and (2)  
14 the fingerprints and photograph of the person. Within  
15 three days thereafter, the registering law enforcement  
16 agency shall electronically forward the statement,  
17 fingerprints, and photograph to the Department of  
18 Justice.

19 (g) If any person required to register by this section  
20 changes his or her residence address, he or she shall  
21 inform, in writing within 10 days, the law enforcement  
22 agency with whom he or she last registered of his or her  
23 new address. The law enforcement agency shall, within  
24 three days after receipt of the information, electronically  
25 forward it to the Department of Justice. The Department  
26 of Justice shall forward appropriate registration data to  
27 the law enforcement agency having local jurisdiction of  
28 the new place of residence.

29 (h) Any person required to register under this section  
30 who violates any of the provisions thereof is guilty of a  
31 misdemeanor. Any person who has been convicted of  
32 arson or attempted arson and who is required to register  
33 under this section who willfully violates any of the  
34 provisions thereof is guilty of a misdemeanor and shall be  
35 sentenced to serve a term of not less than 90 days nor  
36 more than one year in a county jail. In no event does the  
37 court have the power to absolve a person who willfully  
38 violates this section from the obligation of spending at  
39 least 90 days of confinement in a county jail and of  
40 completing probation of at least one year.

(i) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Department of the Youth Authority, or the court, as the case may be, shall order the parole or probation of that person revoked.

(j) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(k) In any case in which a person who would be required to register pursuant to this section is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including, but not limited to, firefighting or disaster control, the local law enforcement agency having jurisdiction over the place or places where that assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(l) Nothing in this section shall be construed to conflict with Section 1203.4 concerning termination of probation and release from penalties and disabilities of probation.

A person required to register under this section may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 and, upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under this section. This certificate shall not relieve the petitioner of the duty to register under this section for any offense subject to this section of which he or she is convicted in the future.

Any person who is required to register under this section due to a misdemeanor conviction shall be relieved of the requirement to register if that person is relieved from the penalties and disabilities of probation pursuant to Section 1203.4.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred  
2 by a local agency or school district will be incurred  
3 because this act creates a new crime or infraction,  
4 eliminates a crime or infraction, or changes the penalty  
5 for a crime or infraction, within the meaning of Section  
6 17556 of the Government Code, or changes the definition  
7 of a crime within the meaning of Section 6 of Article  
8 XIII B of the California Constitution.

